

# City of Homer



# Personnel Regulations

**Revised: April 27, 2009  
Resolution 09-45**



**CITY OF HOMER  
PERSONNEL REGULATIONS**

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## CHAPTER ONE

### GENERAL PROVISIONS

**1.1 Authority.** These Personnel Regulations are adopted pursuant to Section 1.38.010 of the Homer City Code and shall be effective upon adoption by the City Council via resolution and administered by the City Manager.

**1.2 Purpose.** It is the general purpose of these regulations to establish uniform policies and procedures to guide and improve the quality of personnel administration. These Personnel Regulations are subject to change.

**1.3 Scope.** These regulations shall apply to all non-elected employees of the City except where these regulations contradict specific provisions of a negotiated contract or with state, local or federal law.

**1.4 Personnel Office.** The personnel office shall be supervised by the City Manager or if appointed, a Personnel Director. Central files pertaining to personnel matters including benefits, forms and records shall be maintained in the personnel office. The City Manager may delegate to a Personnel Director any personnel functions required of the City Manager except those prescribed in Chapter Eleven (Communication, Grievances and Appeal Procedure) of these regulations.

**1.5 Personnel Records.** For each City employee, a single personnel file shall be maintained in the Personnel Office. The file may include such documents as the employee's application, reports of employment investigations, work performance, progress and disciplinary actions, records of personnel actions, job descriptions and specifications and current and past salary status changes. Personnel files are considered confidential and open only to the City Manager, Personnel Director, the hiring supervisor, the Department Director, and the employee. Records in the personnel file are subject to disclosure to others only pursuant to federal or state law or city code or ordinance. Nothing contained in this section shall prohibit access to and use of the personnel file in any grievance, arbitration or lawsuit involving the employee and the City relating to City employment. Employees may receive copies of all materials to be placed in their personnel file when they are received by the Personnel Director or from payroll when a salary change is made. Employees are encouraged to review their entire personnel file periodically by contacting the Personnel Director. Medical information concerning employees will be maintained in a separate employee medical file.

**1.5.1 Department Personnel File.** A Department Director may establish and maintain a management file, for individual employees for use in providing direction and supervision to the employee. The file shall be open to the employee at all times for their review. The file may contain such things as copies of time cards, leave requests, training and certification records and memos between the employee and Supervisor/Department Director.

**1.5.2 Personnel Records Retention.** Personnel files will be maintained for ten years following employee termination. After ten years, terminated employees' names, social security numbers, dates of employment, rates of pay and title as well as any leave without pay time will be listed in an employee data base and the contents of the file destroyed.

**1.6 Revision and Amendments.** The City Manager may recommend revisions to these regulations at any time. Revisions shall become effective upon their approval by the City Council.

**1.7 Variances.** Except where prohibited by state, local or federal law the City Manager shall have the power to vary or modify the strict application of these regulations in any specific case when such application would result in undue hardship to the employee(s). Whenever the City Manager shall authorize such a variance, record of such variance and the reasons for it shall be made in writing and retained in an appropriate file.

## **CHAPTER TWO**

### **ORGANIZATION AND DELEGATION OF AUTHORITY**

**2.1 Purpose.** Proper organization and delegation of authority are essential to effective City government administration and management. The responsibilities and authorities described in this chapter are intended to establish a clear understanding of the role each segment of City government must play in order to create and administer a sound personnel management program.

#### **2.2 Department, Department Director, Divisions and Units.**

**2.2.1 Department:** A principal subdivision of the City government established by Chapter 1.40 of the City Code. These departments currently include: (1) Administration; (2) Finance; (3) Public Safety (Police and Fire); (4) Port and Harbor; (5) Public Works. Each department is headed by a Department Director or the City Manager.

**2.2.2 Department Director:** The chief administrative, executive officer or employee in each department of the City or the person appointed by the Department Director to act as the Director's designee or representative.

**2.2.3 Division:** A subdivision of a department whose chief supervisor has a direct reporting relationship to a Department Director. Divisions are found in the Police, Fire, Port, Public Works, Administration and Finance Departments. Divisions include, but are not limited to, the fish dock and harbormaster divisions of the Port and Harbor Department; operation & maintenance, and water & sewer treatment divisions of Public Works Department. Divisions may also be established by the City Manager, when, due to insufficient employees or other reasons department status is unwarranted but division status is warranted due to the responsibilities assigned. The supervisors of such administrative divisions may report directly to the City Manager. Such divisions include, but are not limited to, the Library, Planning and Zoning, City Clerk's, Personnel and Community Schools.

**2.2.4 Units:** A subdivision of a department division. The supervisor of a unit may report directly to the division supervisor. Current units include, but are not limited to, patrol, dispatch services, and investigations unit of the Police Department, motor pool, parks, building maintenance, streets and maintenance unit of the Public Works Department and maintenance and administrative units of the Port and Harbor Department.

#### **2.3 Management Responsibility and Authority**

**2.3.1 City Council.** The City Council shall have responsibility and authority to among other things:

**2.3.1.1** Approve the City's budget including requests for personnel

management funds.

**2.3.1.2** Approve Personnel Regulations developed by the City Manager.

**2.3.1.3** Appoint the City Manager and other officers as specified in the Homer Municipal Code.

**2.3.2 City Manager.** The City Manager shall have responsibility and authority to among other things:

**2.3.2.1** Administer the Personnel Regulations adopted by the City Council.

**2.3.2.2** Develop and implement use of such forms, reports and procedures as may be necessary to carry out the City's personnel program.

**2.3.2.3** Appoint Directors of Departments.

**2.3.3 Department Directors.** Department Directors shall have the responsibility and authority to among other things:

**2.3.3.1** Enforce personnel policies and administer the merit system of their department.

**2.3.3.2** Keep employees in their department informed of current personnel policies and procedures.

**2.3.3.3** Participate in the grievance procedures as specified in Chapter Eleven.

**2.3.3.4** Appoint and dismiss all employees under the Department Directors jurisdiction as delegated by the City Manager, subject to the provisions of these Personnel Regulations.

**2.3.3.5** Inform the City Manager of any problems, complaints, or other irregularities which are felt to be a detriment to the efficient management of the City.

**2.3.3.6** Inform the City Manager when any situation arises which is not covered by the Personnel Regulations or other policies or procedures of the City.

**2.3.3.7** Recognize that the City is a service organization and exists due to a public need. As such, providing service to the general public is the foremost concern for each department director.

**2.3.3.8** Responsible for creating an atmosphere free of discrimination and

harassment within their department.

**2.3.4 Supervisory Personnel.** Supervisory personnel shall have responsibility and authority to among other things:

**2.3.4.1** Enforce personnel policies, rules and regulations in the units under their supervision.

**2.3.4.2** Take corrective action concerning employees under their supervision and make recommendations as to hiring, firing, other disciplinary actions, transfers, promotions, and personnel evaluations subject to review and approval of Department Director.

**2.3.4.3** Evaluate employee performance.

**2.3.4.4** Participate in the grievance procedures as specified in these regulations.

**2.3.4.5** Inform their Department Director when any situation arises which is not covered by the Personnel Regulations or other policies or procedures of the City.

**2.3.4.6** Recognize that the City is a service organization and exists due to a public need. As such, providing service to the general public is the foremost concern for each supervisor.

**2.4 Employee Responsibility.** All employees of the City must:

**2.4.1** Read and abide by the Personnel Regulations and other relevant City policies and regulations and ask supervisors to explain the regulations if questions arise.

**2.4.2** Understand the function of the department to which they are assigned and how that function relates to the total mission of the City and all of its departments.

**2.4.3** Discuss with the immediate supervisor any questions relating to the interpretation or application of these rules, either informally or formally through the grievance procedure.

**2.4.4** Be prompt, courteous, efficient and diligent in carrying out assigned duties and responsibilities within the bounds of established rules, regulations, procedures and ordinances.

**2.4.5** Be familiar with their job description and perform the job to the best of their ability.

**2.4.6** Recognize that the City is a service organization and exists due to a public need. As such, providing service to the general public is the foremost concern for each employee.

**2.4.7** Carry out, to the best of their ability, policies adopted by the Homer City Council in a competent and fair manner, irrespective of personal feelings or disagreements.

**2.4.8** Inform their supervisors of any problems, complaints, or other irregularities which they feel are a detriment to the efficient management of their department.

**2.4.9** Be good citizens, do their job ethically, conscientiously, fairly and honestly, be amenable to supervision, respect the rights of all individuals and cooperate with co-workers and associates.

**2.4.10** Inform their supervisors when any situation arises which is not covered by the Personnel Regulations or other policies or procedures of the City.

## CHAPTER THREE

### RECRUITMENT, APPLICATION, SELECTION, APPOINTMENTS

**3.1 Job Announcements and Publicity.** The Personnel Director shall post public notice of all vacancies for full and part-time positions online and on bulletin boards within City departments and shall post the notice twice in a newspaper of general circulation in the community. The notice requirement may be waived if the same or a similar position was vacant no more than one year prior to the current vacancy. Announcements for temporary or casual positions may be publicized in whatever manner deemed appropriate by the Personnel Director. Job announcements shall state position title, description of position, list of skills, knowledge and ability required for position, application deadline, place to file application, salary range, whether the position is exempt from overtime pay and the city's status as an equal opportunity employer. The notice shall also identify any testing required for the posted position. Application deadlines will close five working days after the second advertisement date in a newspaper of general circulation in the community. In the interest of personnel management the City Manager has the right to transfer employees to departments with open positions without advertising the position.

**3.2 Application for Employment.** The Personnel Office will only accept applications for open positions where recruitment is ongoing to fill the position. The City of Homer does not accept unsolicited applications and/or resumes. The application form by which a person applies for a position with the City shall be provided by and filed with the Personnel Office.

**3.3 Child Labor.** The minimum age and permitted hours for City employment shall be in accordance with federal and state law. Persons under eighteen years old may not be employed in hazardous positions.

**3.4 Selection Devices.** Various selection devices may be used to obtain qualified candidates for a position, including, but not limited to work samples, performance tests, written tests, oral board reviews, background and reference inquiries, and evaluation of training and experience. Prior to offering employment supervisors are required to obtain references and complete background checks as necessary for the position. All references and background information should be attached to the employee's application and submitted to the Personnel Office.

**3.5 Position Appointments.** Appointments are made by the Department Director in consultation with the immediate supervisor and subject to final approval by the City Manager.

**3.6 Intradepartmental Promotions.** Employees may be promoted within their respective department upon recommendation of the Department Director provided the employee possesses the qualifications of the position to which they are being promoted. The external advertising requirements of Section 3.1 may be waived for any open position which is filled by an intradepartmental promotion. The promotional probationary period may be waived on full-time employees and all benefits will continue to accrue at previous rates. Generally, the employee will begin at a minimum of Step B, defined in Chapter 5 of these Regulations, of the new pay range, but may be compensated at a higher level depending on experience and training. In no case shall an employee be paid less than the amount equivalent to one step above their previous salary step.

**3.7 Intradepartmental Transfers.** Employees may be transferred within their respective departments upon recommendation of the Department Director provided the employee possesses the qualifications of the position to which they are being transferred. The transfer probationary period may be waived at the discretion of the Department Director and all benefits will continue to accrue.

**3.8 Interdepartmental Transfers or Promotions.** Employees may be transferred or promoted to a different department within the City by applying for consideration when a position is announced. The transfer shall be considered a new appointment within the pay range assigned to the position and probationary period may be waived at the discretion of the Department Director. No loss of employee benefits based on longevity will occur.

**3.9 Emergency Appointments.** In an emergency that threatens life or property, the Department Director with City Manager approval may, without complying with the provisions of the Personnel Regulations concerning appointments, employ, for not more than thirty (30) calendar days, such persons as are necessary to meet the emergency.

**3.10 Temporary Appointments.** In cases of special projects, seasonal activities or other situations necessitating employment for six months or less, the Department Director with Personnel Director approval may make a temporary appointment. Upon Personnel Director approval temporary appointed employees returning to employment after two consecutive seasons with at least 1040 hours in the same or like position with the City may be given a step increase within the particular pay range established for the position. Temporary appointed employees shall not receive leave accrual, shift differential or other benefits. No temporary appointed employee shall remain on temporary status for a period of longer than six consecutive months without approval of the City Manager. Temporary appointed employees are at will employees.

**3.11 Casual Appointments.** Casual appointments are made when the need for an employee's services is on an intermittent as needed basis over a longer period of time. Employees who have been casually appointed are at will. These casual appointed employees shall not receive leave accrual, shift differential or other benefits.

**3.12 Part-Time Appointments.** Part-time appointed employees are hired to work on a regular and continuing schedule of 20, 24 or 28 hours per work week. When a part-time employee is made a full-time employee without a break in service, credit shall be given for the service when computing duration of probation only. For purposes of calculating benefits, the part-time appointed employee's date of hire date will be the day the employee accepted a full-time position.

**3.13 Employment of Relatives.**

**3.13.1** For purposes of this chapter, "family member" means the spouse of the employee; a life partner or person cohabitating with the employee; a child, including a stepchild and/or an adopted child of the employee; a parent, step-parent, sibling, or grandparent of the employee or a parent or sibling of the employees' spouse.

**3.13.2** The City will not hire or promote a full or part-time employee into a position where

the employee will report to, be supervised by, audited by, or work in the same department with a family member.

**3.13.3** If two employees working in the same department or in a supervisory/subordinate capacity become family members the City may permit one of the employees to transfer to another department where neither employee supervises, reports to or audits the other employee and the employees do not report directly to the same supervisor if a position is available. If a transfer cannot be accomplished the City must terminate the employment of one of the employees. The City Manager shall determine which employee to terminate based upon the needs of the City.

**3.13.4** Temporary employees may be employed within the same department as a family member so long as neither employee reports to, is supervised or audited by the other and the employees do not report directly to the same supervisor.



## CHAPTER FOUR

### POSITION CLASSIFICATION

**4.1 Definition.** All full and part-time positions in the City are evaluated based on the nature of the position, assigned a total points value based on the evaluation, and assigned a salary range based on the points value. This valuation system is the City's Position Classification System. The purpose of classifying positions is to provide an effective tool for personnel management such as:

**4.1.1** Staffing levels and budgeting

**4.1.2** Establishing fair and equitable pay

**4.1.3** Establishing job performance standards

#### **4.2 Position Classification System.**

**4.2.1 Internal Parity.** In order to assure internal parity within the Position Classification System, the following procedure may be completed at a minimum of once a year for each full-time position or every 2080 hours for each part-time position:

**4.2.1.1** The employee and their immediate supervisor compare the employee's job description with the actual duties performed by the employee. Differences between assigned duties and description shall be reported to the Department Director.

**4.2.1.2** The Department Director evaluates reports and either changes employee assigned duties to conform to the job as described or amends the job description to reflect employee's assigned duties. All amended job descriptions shall be reviewed by the Personnel Director. If the job description has significant changes, the Personnel Director and two Department Directors will review the position and reclassify it, if necessary.

**4.2.1.3** An amended job description must be reviewed and approved by the City Manager who may require such backup materials as needed to justify the change.

**4.2.2 External Parity.** It is the policy of the City to pay salaries and wages competitive with salaries and wages for comparable work and responsibilities in and outside municipal government. External wage parity will only be used as an overall guide for pay purposes and will not be the basis for determining individual salaries or cost of living increases on a yearly basis. The Personnel Director shall review the Position Classification System no less than every five years. A report of findings shall be submitted to the City Manager for review. The City Manager shall provide a report and recommendations to the City Council.

**4.3 Job Description/Specifications.** Common qualifications such as the responsibilities listed in Section 2.4 of these Regulations shall be required for each position even though such traits may not be specifically mentioned in the specifications. The listing of major job functions or activities will

not be considered all inclusive. Employees may be assigned specific duties in addition to or in place of those duties listed on their job description. Each position shall have a job description/specification which includes:

- 4.3.1 An appropriate title
- 4.3.2 A general statement of functions
- 4.3.3 A listing of major job functions/activities
- 4.3.4 Required skills, knowledge, and abilities
- 4.3.5 A statement as to whether the position has supervisory authority
- 4.3.6 External visibility/contact
- 4.3.7 Working conditions
- 4.3.8 A statement as to whether the position is exempt from the payment of overtime pay
- 4.3.9 A statement as to whether the position is full-time. Full-time positions are hired to work a predetermined schedule of 40 hours or more per workweek
- 4.3.10 A statement as to whether the position is part-time. Part-time positions are hired to work a predetermined schedule of 20, 24 or 28 hours per workweek.

**4.4 New Positions.** Requests for new positions are directed to the City Manager during the budget process with accompanying verification of need, recommended job description and specifications. The City Manager may authorize the filling of a new position subject to budgetary appropriations by the City Council.

**4.5 Position Reclassification - Upgrade.** A position may be reclassified when additional duties and responsibilities have been assumed by the incumbent or additional duties and responsibilities are assigned to the position. Position reclassification requests are directed to the Personnel Director for review and refactoring. If the additional duties and responsibilities are substantially different from those currently performed, the Department Director may authorize advertising the position. Any reclassification is dependent upon sufficient department budget for approval. In no case shall an employee be paid less than the amount equivalent to one step above their previous salary step.

**4.6 Position Reclassification - Downgrade.** A position may be reclassified to a lower range if the responsibilities of the job are determined to be less than originally indicated, or if certain responsibilities are removed from the job. The Department Director may fill the reclassified position in a manner deemed appropriate. If an incumbent employee fills the job which has been downgraded they shall not be paid less than their present salary, but their salary will not be increased until the salary at the new level has met or exceeded their present salary. Downgrade reclassification shall not be considered a demotion.

**4.7 Position Change.** A position may be changed when, in the opinion of the Department Director, the responsibilities of a position change sufficiently to require a new job title, job description, or specifications. The Department Director may fill the new position in a manner deemed appropriate to the situation. If an incumbent in the old position is qualified and capable of performing the new job, the Department Director may allow the incumbent to remain in the changed position. Incumbents in the new position will not lose any benefits accrued but will be paid within the salary range of the new position.

**4.8 Reassignment Pay.** Pay for an employee who has been reclassified, transferred, promoted or in any other way had their position changed, shall be determined at the time of such reassignment with due consideration being given to the past service of the employee and the needs of the City.



## CHAPTER FIVE

### SALARY ADMINISTRATION

**5.1 Schedule Revisions.** Revisions and amendments to the salary schedule are recommended to the City Council by the City Manager and shall become effective by adoption of the budget by Council. The City Manager may:

**5.1.1** Compare salary rates, compensation policies and personnel development of the City's positions and those of like positions of employers in the community and other municipal governments as per Section 4.2.2.

**5.1.2** As budget allows, at least once a year determine the increase or decrease in the Anchorage Consumer Price Index and base a cost of living adjustment on some percentage of the officially published increase or decrease in that index, exclusive of the medical portion.

**5.1.3** Examine the salary schedule, including the salary ranges and salary steps within a range to ascertain if adjustments should be made.

**5.1.4** Based upon the above, submit to the City Council recommendations for amendment of the salary schedule.

**5.2 Appointee Pay.** New employees shall receive the salary assigned a Step A in the range assigned to the position when the new employee possesses the minimum required skills, knowledge and abilities. When in the opinion of the Department Director, the new employee possesses more than the minimum skills, knowledge and abilities required for the position, the employee may be assigned to a pay step above Step A in the range assigned to that position. The starting pay step for any new employee shall not affect the length of the employee's initial probation period.

**5.3 Pay Increases.** Employees may receive pay increases based on merit. Such merit increases shall be recommended and approved by the Department Director and City Manager based on a written performance evaluation. Pay increases will be made at the beginning of the pay period. An employee is not eligible for a pay increase as the result of any interim evaluation during the probationary period. Evaluations are regularly performed once a year, at the end of the initial, transfer or promotional probationary period, or when deemed appropriate by the Department Director. Usual compensation advancement will apply as follows, assuming continuous service and satisfactory performance:

**5.3.1** Step A - Entry level; Employees remain at a Step A or their initial starting Step salary for their probationary period except as otherwise provided in this section.

**5.3.2** Step B – Employees advance to a Step B or receive a one step increase based upon satisfactory completion of their probationary period except as otherwise provided in this section. Employees shall remain at this level one year. Police service employees are placed on a one year probationary period and are eligible for a step increase after the satisfactory

completion of the employee's six and twelve month probationary period.

**5.3.3 Steps C through O - Further advancement** is generally dependent upon continued satisfactory performance for at least one year from the anniversary date in the position at each salary step. An employee may be advanced an additional salary step if the Department Director and City Manager determine the employee's performance has been vastly superior and has exceeded the requirements for the position.

**5.4 Anniversary Date.** An employee's Anniversary Date is one year following satisfactory completion of the initial, promotional or transfer probationary period for the position currently assigned. A police service employee's Anniversary Date is one year following the satisfactory completion of the employee's six month probationary period.

**5.5 Pay Day.** Generally, employees shall be paid for a fourteen day work period every other Friday on the Friday following the end of the pay period. Pay checks will be available after 8:00 a.m. in the Finance Office. If the payday falls on a holiday, pay checks will be available in the Finance Office the day preceding the holiday.

**5.5.1 Emergency Pay Check.** Pay check dispersal by other than the above listed procedure may be permitted for hardship or emergency reasons if approved by the Department Director and the Finance Director.

**5.5.2 Final Pay Check.** Upon voluntary resignation, the final pay check will be available within three working days following the effective date of resignation. Final pay checks will be available within one working day when employment is involuntarily terminated. Check availability is dependent on prompt submission of time sheets to payroll.

**5.5.3 Calendar Year.** For payroll and benefit accrual purposes, the calendar year begins the first day of the pay period resulting in the first January dated paycheck and ends the last day of the pay period resulting in the last December-dated paycheck. Calendar year wages for the purposes of PERS reporting is based solely on the pay period ending date in accordance with Alaska Statute 39.35.

**5.6 Time sheets.** Time sheets are required from all employees. If timesheets are not received in a timely manner prior to the processing of payroll, the employee will be paid at their hourly rate of pay for estimated hours worked in the pay period. Adjustments, if any, will be made on the next pay period. Accuracy on time sheets is the responsibility of each employee and their supervisor. Timesheets are reviewed by payroll and in the event of an error a notation will be made on the timesheet and the employee/and or supervisor will be notified of the change and a copy of the corrected time sheet sent to the employee.

**5.7 Workday and Workweek.**

**5.7.1 Workday.** The standard workday commences at 12:00 a.m. and ends at 11:59.59 p.m. on the same day. The Department Director may establish a different work day for any or all employees in the department. An employee's workday schedule is defined at date of hire

and may be changed at any time as a result of department need. The general workday schedules are as follows:

**5.7.1.1 Standard Workday.** The standard work day consists of eight or ten hours per day depending upon department needs.

**5.7.1.2 Jail Officer Workday.** The Jail Officers work day consists of eight or twelve hours per day depending upon department needs.

**5.7.1.3 Emergency Services Workday.** The Emergency Services personnel work day consists of 24 1/4 hours per day. Workday begins at 8:00 a.m. and ends at 8:15 a.m. the following day. Work days are 24 1/4 hours with 16 1/4 hours of work time and eight hours of unpaid sleep time. Sleep time is scheduled from 11:00 p.m. until 7:00 a.m. the following day. If an employee does not receive at least five continuous hours of uninterrupted sleep time within a workday all sleep time hours during the shift will be compensated.

**5.7.2 Workweek.** A workweek consists of seven consecutive 24 hour periods or a fixed and regularly reoccurring period of 168 hours beginning at 12:00 a.m. on Monday and ending at 11:59:59 pm. the following Sunday for all City employees, except authorized Fire and Jail personnel. Authorized Fire and Jail personnel workweek shall consist of two consecutive workweeks. The employee's workweek schedule is defined at date of hire and may be changed at any time as a result of department need. The general workweek schedules for employees are as follows:

**5.7.2.1 Standard Workweek.** Eight hours per day five days week, or ten hours per day four days per week, 2080 hours per year

**5.7.2.2 Jail Officers.** Fourteen day work period pursuant to section 207(k) of the Fair Labor Standards Act and 29 CFR Part 553. Schedule of seven days on with one eight hour day followed by six twelve hours days followed by seven days off.

**5.7.2.3 Emergency Services.** Fourteen day work period pursuant to section 207(k) of the Fair Labor Standards Act and 29 CFR Part 553. Schedule of 81 1/4 hours within a fourteen day work period with five days on and nine days off, 2,112 1/2 hours annually.

**5.8 Shift Pay.** Additional pay is provided to employees that are assigned to work in a swing or graveyard shift. An employee must work at least half of their scheduled work day in a swing or graveyard shift to be entitled to shift pay. Any continuous shift with at least half of the hours in a higher shift rate shall have the entire shift paid at the appropriate higher shift rate. Shift differential shall be calculated as part of an employee's hourly rate of pay for overtime compensation purposes. All shifts should be scheduled so that each employee works 80 hours within each pay period. Shift differential shall not be paid for any non "working" hours. Fire Department Emergency Services personnel on a fourteen day work schedule will not receive shift differential.

**5.8.1 Swing Shift.** Employees assigned to work between the hours of 4:00 p.m. and midnight will receive two percent additional pay to their hourly rate of pay for hours worked during a swing shift.

**5.8.2 Graveyard Shift.** Employees assigned to work between the hours of midnight and 8:00 a.m. will receive four percent additional pay to their hourly rate of pay for hours worked during a graveyard shift.

**5.9 Overtime Policies.** Overtime is paid for hours an employee works over a scheduled workday or a 40 hour workweek with the exception of Jail Officers and Emergency Services personnel. Work hours are hours an employee actually works and also include compensatory hours. Hours that are not worked such as holiday pay or any type of leave hours are not counted as hours worked for overtime calculation purposes. If an employee is scheduled to work on a recognized holiday only the actual hours worked will be counted for the purposes of overtime calculation. The eight hours holiday pay received while working on the holiday will not be included in the overtime calculation. Overtime is approved through the budget process and reported through monthly reports to the City Manager from the Finance Department. Department Directors must inform the City Manager in advance of any projects requiring large amounts of overtime.

**5.9.1 Jail Officers.** Receive overtime for hours in excess of their scheduled work day or 80 hours in a fourteen day work period.

**5.9.2 Emergency Services.** Receive overtime for work in excess of 106 hours in a fourteen day work period. Employees may substitute for one another where the substitution is voluntary by both employees and approved by the supervisor. The hours worked by the substituting employee shall be excluded from any overtime calculation in accordance with 29 U.S.C. 207 (p) (3). The supervisor may suggest that an employee substitute for another, but the employee is free to refuse.

**5.9.3 Exempt Employees.** Exempt employees are not eligible to receive overtime pay unless overtime hours worked are to fill in for an absent non-exempt subordinate and approved in advance by the Department Director or City Manager. Employees should check their job description to determine whether their positions are considered exempt from overtime payment.

**5.10 Overtime Pay.** Overtime will be paid at 1 ½ times the nonexempt employee's hourly rate of pay. Overtime shall be kept at the minimum amount needed to maintain essential City services.

**5.10.1 Regular Overtime.** Overtime that occurs between the hours of 8:00 a.m. to 5:00 p.m. any day of the week or is a continuous part of the work day up to two hours. If more than two hours is worked after the end of the work day all overtime worked should be paid at the swing shift (OT2) overtime rate in Subsection 5.10.2 of these Regulations.

**5.10.2 Swing Shift Overtime (OT2).** Overtime worked during a swing shift 4:00 p.m. to midnight.

**5.10.3 Graveyard Shift Overtime (OT3).** Overtime worked during a graveyard shift midnight to 8:00 a.m.

**5.10.4 Holiday Double Overtime.** All unscheduled work performed on a holiday will be compensated at double the hourly rate of pay, including the appropriate shift pay. Unscheduled work is defined as any work that is not scheduled in advance. Employees should note on their timesheet if work is unscheduled. On-call personnel called in for unscheduled work on a holiday will be compensated at double the hourly rate of pay, including the appropriate shift pay.

**5.11 Compensatory Time.** Compensatory time may be given in lieu of overtime pay for non-exempt employees if an agreement or understanding has been arrived at with the employee prior to the performance of work. Each one hour of overtime is converted to 1½ hours of compensatory time and when used is paid at the employees hourly rate of pay excluding shift differential. Employees can accrue up to a maximum of 40 hours at any one time but cannot accrue more than 80 hours total per calendar year. An employee who has accrued the maximum number of compensatory hours shall be paid overtime compensation in cash for any additional overtime hours worked.

An employee shall be permitted to use accrued compensatory time within a reasonable period after it is requested as long as doing so will not unduly disrupt the employee's department. Requests for compensatory time off of more than one day require written advance approval from the employee's supervisor. Department Directors shall approve or deny requests within two working days. An employee who has accrued compensatory time off shall, upon termination of employment, be paid for the unused compensatory time at a rate of compensation not less than the average rate received by the employee during the last three years of employee's employment, or the final rate received by the employee, whichever is higher.

**5.11.1 Emergency Services Personnel.** Compensatory time may also be given in lieu of the hourly rate of pay for Emergency Services Personnel at the rate of one hour for each hour worked on the 207(k) schedule for hours worked up to 106 within a fourteen day work period. Hours worked over 106 in a fourteen day work period will be at the rate of 1½ for each hour worked if an agreement or understanding has been arrived at with the employee prior to performance of work.

**5.12 Work Call Back.** Employees that have used leave or have not worked due to a holiday during their scheduled workday or workweek that are called in for unscheduled work will be paid overtime for the call back hours regardless of the amount of hours they have worked during the workday or workweek. Employees should note call back (CB) on their timesheet to be paid overtime. This regulation does not apply to employees that are scheduled to be On-Call as defined in section 5.14 of these Regulations or Fire Department Emergency Services personnel.

**5.13 Two Hour Minimum Call Out.** Employees called back for unscheduled work shall be paid a minimum of two hours overtime pay. This does not apply to overtime hours worked immediately prior to, or after, normal working hours or for employees scheduled to attend evening or weekend meetings.

**5.14 On-Call Pay.** All full-time employees that are required to be on call shall be compensated at the rate of \$3.00 per hour for all on-call hours outside of work hours. On-call compensation received shall be calculated as part of the employee's hourly rate of pay for overtime compensation purposes. On-call employees that are called back for unscheduled work after completing their work day shall be paid a minimum of two hours pay at their hourly overtime rate. On-call employees scheduled to work weekend hours outside their normal work week will be paid overtime regardless of the number of hours worked during the workweek. On-call employees should not be on leave or take leave during scheduled on-call periods and should not consume alcohol or drugs while on-call. The on-call duty definition does not pertain to Fire Department personnel when they are not required to be accessible for work assignment.

**5.15 Temporary Assignment Pay.** Employees temporarily assigned to a position with a higher pay range and where the employee will be assuming all of the job duties for that position, for a period of five consecutive days or more, shall be paid at the first step of the higher pay range or they shall be granted a two step pay increase, whichever is higher for the full period worked in the temporary assignment. It is the responsibility of the Department Director to notify the Personnel Director of the assignment dates. An employee who is assigned to a position with a lower pay range for any period shall not receive a reduction in pay unless the assignment is due to a demotion or in lieu of lay off. Non-exempt employees temporarily assigned to an exempt position shall be eligible for overtime compensation for overtime hours associated with their non-exempt duties.

**5.16 Training and Travel Time.** The Department Director may, as opportunities and budget allow, approve training programs for employees. Programs may include lecture courses, demonstrations, seminars, workshops and courses sponsored in the employee's field by outside organizations, and whatever is conducive to improved effectiveness and broader knowledge on the part of the employees of the City.

While attending training, work schedules shall be from 8:00 a.m. to 5:00 p.m. Monday through Friday. Exceptions may be made due to different types of training. Department Director's and supervisors should adjust employee work schedules to accommodate training and to reduce the amount of overtime, if any, required for travel and training. Training and travel hours should be noted on the timesheet. Public Safety and other employees attending extended training or the police academy may have their hourly rate adjusted to accommodate longer training hours but in no case shall wages be less than the employee's weekly wage. Employees traveling out of town for training courses shall be paid at least eight hours per day for training time unless they will be traveling on a training day. If traveling on training day actual training hours and travel time should be designated on the timesheet.

**5.16.1 Same Day Training.** Full and part-time employees required to attend training programs during normal working hours shall be paid their hourly rate of pay for all hours of actual training plus travel expenses based on the City of Homer Procurement Policy and Procedures Manual. Shift differential will not be paid for training wages or travel time. An employee sent out of town for one day is not paid for time spent traveling from employee's residence (home, hotel, etc) to the airport or vice versa. The employee must be paid for all other travel time (except meal breaks ½ hour or longer). Travel and training over eight

hours will be paid at the overtime rate. Travel time will be paid according to the following;

1. Compensable time:
  - a. Time spent traveling, as a driver or passenger.
  - b. Flight delay
  - c. If an employee is unable to return on the same day due to circumstances beyond their control (i.e. weather, mechanical problems, etc.) the overnight section is applied.

**5.16.2 Multiple Day/Overnight Training.** Full and part-time employees required to attend training more than one day or to stay overnight for training shall be paid their hourly rate of pay for all hours of actual training plus travel expenses based on the City of Homer Procurement Policy and Procedures Manual. Shift differential will not be paid for training wages or travel time. When an employee travels overnight on business they must be paid for time spent traveling (except meal breaks ½ hour or longer) during their normal working hours on their non-work days as well as work days. An employee traveling overnight is not paid for time spent traveling from the employee's residence (home, hotel, etc) to the airport or vice versa. Travel time will be paid according to the following:

1. Compensable time:
  - a. Time spent traveling as a passenger, during work hours on any day.
  - b. Time spent picking up or arranging for the shipment or transportation of city equipment.
  - c. Time spent traveling as a driver.
  - d. Flight delay which requires remaining at the airport.
  - e. Time spent traveling overnight **before or after** working hours will be compensable at employee's hourly rate of pay regardless of how many hours are traveled in a day. (Overnight travel time outside an employees work schedule is not considered work time according to the Fair Labor Standards Act but City policy will pay travel time outside of normal working hours at employee's hourly rate of pay.) Travel time hours must be documented and will not be counted as hours worked towards overtime calculations.

**5.16.3** Upon approval of the Department Director, full and part-time employees attending off-duty job-related or technical school courses may be reimbursed for the cost of the course. The city will reimburse the cost of the classes 50% up to \$1,500 maximum annually. Reimbursement will be contingent upon completion and passing of the course, and availability of budget funds. Reimbursements over \$1,500 annually may be considered for special circumstances subject to City Manager approval. Off-duty non-job related courses will not be reimbursed.



## CHAPTER SIX

### EMPLOYEE BENEFITS

**6.1 Recognized Holidays.** All full-time employees will receive eight hours of holiday pay for each recognized holiday whether worked or not. The holiday pay will be based on the employee's hourly rate of pay, excluding shift differential. Full-time employees that work on a recognized holiday will be paid overtime for all hours worked in addition to receiving eight hours of holiday pay. The eight hours holiday pay is not considered work time and will not be counted as hours worked for the purposes of overtime calculation.

If the holiday falls on a Sunday, the following Monday shall be the recognized holiday. If the holiday falls on a Saturday, the preceding Friday shall be the recognized holiday. Employees whose work day is more than eight hours and who do not work the recognized holiday can be paid less than their scheduled work day or use leave or compensatory time to accumulate the additional hours to meet their work day. Recognized paid holidays are designated below:

1. New Year's Day, January 1;
2. Washington's Birthday, 3rd Monday in February;
3. Seward's Day, last Monday in March;
4. Memorial Day, last Monday in May;
5. Independence Day, July 4;
6. Labor Day, 1st Monday in September;
7. Alaska Day, October 18;
8. Veterans' Day, November 11;
9. Thanksgiving, 4th Thursday in November;
10. Friday after Thanksgiving; and
11. Christmas, December 25.

**6.1.1 Part-Time Employees.** After completing five full years of service part-time employees will receive holiday pay pro-rated on their scheduled workweek. Part-time employees that work on a recognized holiday will be paid overtime for all hours worked in addition to receiving prorated holiday pay. Holiday pay is not considered work time and will not be counted as hours worked for the purposes of overtime calculation.

Part-time employees who normally work more hours per day than they receive in holiday pay can be paid less than their scheduled workweek hours or use leave or compensatory time if available to accumulate their scheduled workweek hours.

**6.1.1.1** Employees working 20 hours per week, four holiday hours

**6.1.1.2** Employees working 24 hours per week, five holiday hours

**6.1.1.3** Employees working 28 hours per week, six holiday hours

**6.2 Leave With Pay.** All full-time employees shall be entitled to leave based upon years of continuous service. After five years of service part-time employees are entitled to pro-rated leave based on their scheduled workweek hours. Advance approval by the Department Director must be

obtained in writing before taking leave. Department Directors shall approve or deny leave requests within two working days when less than one week is requested, and within five working days when more than one week is requested. All accrued leave must be used prior to requesting leave without pay. Department Directors may limit the number of department employees taking leave at any one time. Employees that exhaust their leave bank will be allowed an advance of one pay period of their current leave accrual rate. Leave with pay may be used for any purpose the employee desires and is also used for an employee absence from work due to medical reasons after sick leave has been exhausted. Employees are required to use their leave time if they do not work their scheduled hours except during a holiday week (refer to section 6.1). Full-Time employees accrue leave beginning on the date of hire and may begin to use accrued leave at the completion of two full pay periods. If personal circumstances require an employee be absent during the initial two pay periods, leave without pay shall be taken. Employees who do not work a full pay period accrue leave in proportion to the number of hours worked during the partial pay period, excluding any overtime or extra holiday pay.

Full-Time employees will accrue leave at the following rates:

1 <sup>st</sup> Year	5.54 hrs per payperiod	144.04 hours annually	18 days annually
2 <sup>nd</sup> Year	6.46 hrs per payperiod	167.96 hours annually	21 days annually
3 <sup>rd</sup> to 5 <sup>th</sup> Year	7.38 hrs per payperiod	191.88 hours annually	24 days annually
6 <sup>th</sup> to 9 <sup>th</sup> Year	8.31 hrs per payperiod	216.06 hours annually	27 days annually
10 <sup>th</sup> to 14 <sup>th</sup> Year	9.23 hrs per payperiod	239.98 hours annually	30 days annually
15 <sup>th</sup> Year and Over	10.77 hrs per payperiod	280.02 hours annually	35 days annually

After completing five years of service part-time employees will accrue leave at the following rates:

	20 hours per week	24 hours per week	28 hours per week
5 <sup>th</sup> to 9 <sup>th</sup> Year	2.77 hrs per payperiod	3.32 hrs per payperiod	3.87 hrs per payperiod
10 <sup>th</sup> to 14 <sup>th</sup> Year	3.69 hrs per payperiod	4.42 hrs per payperiod	5.16 hrs per payperiod
15 <sup>th</sup> Year and Over	4.61 hrs per payperiod	5.53 hrs per payperiod	6.46 hrs per payperiod

**6.3 Leave Donation.** Leave hours may be donated to another employee for medical or financial reasons. When leave is donated it shall be computed at the current rate of pay of the donating employee and converted into equivalent hours for the receiving employee.

**6.4 Leave Cap.** Leave with pay may be accrued and carried over from year to year up to a maximum of 720 hours. All hours of leave in excess of 720 hours accrued as of the last pay period of any calendar year, unless committed for use before the following January 31, shall be paid in cash to the employee annually in January.

**6.5 Annual Mandatory Leave Requirement.** At least 40 hours of leave must be taken annually following completion of one year of full-time continuous service. This regulation does not apply to part-time employees. No more than 35 days of leave, excluding compensatory and sick leave, may be taken annually without prior approval of the City Manager.

**6.6 Annual Leave Cash Out.** Full and part-time employees may in a calendar year convert up to 80 hours accrued leave or compensatory time to cash. The employee should submit a leave cash out form through the Department Director to the Personnel Director and Finance Director. In addition to this provision if budget allows employees may request additional leave cash out for emergency situations by sending a written request to the City Manager through the Department Director and Personnel Director. Emergency is defined for purposes of this subsection to mean a critical situation over which the employee has no control.

**6.7 Final Leave Cash Out.** Upon retirement or termination of employment with the City, employees will be paid for all accrued but unused leave and compensatory time. In case of death, compensation for accrued leave shall be paid to the estate of the deceased employee.

**6.8 Sick Leave.** In addition to the leave bank full-time employees will receive 40 hours in a calendar year to be placed in a sick leave bank during the first pay period in January. Sick leave hours not used by year end cannot be carried over, cashed out during employment or upon termination or donated to other employees. After sick leave is exhausted employees are required to use their annual leave. Advance approval by the Department Director must be obtained in writing before taking sick leave for scheduled appointments or medical procedures of 1 day or more. Sick leave will be prorated monthly for employees starting work after January 1<sup>st</sup>. Sick leave may be used for any absence due to personal injury, illness or temporary disability, personal medical and dental appointments, or the illness or injury of a spouse or minor son or daughter or the need to accompany a spouse or minor son or daughter to a medical appointment. Sick leave cannot be used for any absences where the employee is entitled to receive compensation benefits under the Alaska Workers Compensation Act.

**6.8.1 Part-Time.** After completing five years of service part-time employees will receive sick leave pro-rated according to their scheduled work week.

**6.8.1.1** Employees working 20 hours per week, 20 hours annually

**6.8.1.2** Employees working 24 hours per week, 24 hours annually

**6.8.1.3** Employees working 28 hours per week, 28 hours annually

**6.8.2 Medical Certification.** Medical absences of three or more consecutive days may require certification by a physician, surgeon, psychiatrist, dentist or other licensed professional person submitted to the employee's supervisor prior to returning to work.

**6.9 Birthday Leave.** All full-time employees will receive their birthday off as paid leave. The employee will be paid at their hourly rate of pay, excluding shift differential. If the employee's birthday falls on a weekend or, during a scheduled day off the supervisor and/or Department Director will determine the next available leave day. Birthday leave must be taken on the employee's birthday or the next available work day within the work period.

**6.9.1 Part-Time.** After completing five years of service part-time employees will receive birthday leave pro-rated according to their weekly schedule.

**6.9.1.1** Employees working 20 hours per week, four hours

**6.9.2.2** Employees working 24 hours per week, five hours

**6.9.3.3** Employees working 28 hours per week, six hours

**6.10 Christmas and New Years Eve Leave.** Full-time employees will receive four hours leave for Christmas Eve and four hours leave for New Years Eve to be placed in their leave bank in December.

**6.10.1 Part-Time.** After completing five years of service part-time employees will receive Christmas and New Years Eve leave pro-rated according to their weekly schedule.

**6.10.1.1** Employees working 20 hours per week, four hours annually

**6.10.2.2** Employees working 24 hours per week, five hours annually

**6.10.3.3** Employees working 28 hours per week, six hours annually

**6.11 Bereavement Leave.** Full-Time employees will receive 40 hours annually for bereavement leave for the death of a family member. (Family member defined in section 3.13.1). Bereavement leave will be paid at employee's hourly rate of pay excluding shift differential.

**6.11.1 Part-Time.** After completing five years of service part-time employees will receive bereavement leave pro-rated according to their weekly schedule.

**6.11.1.1** Employees working 20 hours per week, 20 hours annually

**6.11.2.2** Employees working 24 hours per week, 24 hours annually

**6.11.3.3** Employees working 28 hours per week, 28 hours annually

**6.12 Witness Leave.** Paid leave shall be granted for an employee's appearance in court or an administrative proceeding if the employee's appearance is legally required and relates to City functions or where the employee's appearance is required by the City. Appearances in court and administrative proceedings that are unrelated to City employment shall be charged to the employee's annual leave.

**6.13 Jury Duty Leave.** If an employee is summoned and serving as a juror during their scheduled work hours they will be paid their hourly rate of pay excluding shift differential. The employee will be entitled to keep any jury pay received for the first ten working days while serving. Any jury pay received after the ten day period shall be paid to the City, less expenses to the employee.

**6.14 Voting Leave.** An employee who is a qualified voter and does not have sufficient time outside working hours to vote at a state or local election may, without loss of pay, take off as much working time as will enable voting. If any employee has two consecutive hours in which to vote, either between the opening of the polls and the beginning of the employees' working shift, or between the end of the working shift and the closing of the polls, the employee shall be considered to have sufficient time outside working hours to vote.

**6.15 20 and 30 Year Anniversary Leave.** Full-Time employees will receive a day off on their 20 and 30 year anniversaries with the city in recognition of their service. Anniversary leave will be paid at employee's hourly rate of pay, excluding shift differential, and should be taken on the day of anniversary or within the same pay period.

**6.16 Short-Term Military Leave with Pay.** A full-time employee who is a member of the National Guard or a reserve component of the armed forces of the United States, is entitled to a leave of absence with pay from their duties for a period not exceeding fifteen calendar days in any calendar year. Pay received from the military during the leave should be paid to the City. Military leave with pay may be granted only when an employee receives bona fide orders to active or training duty for a temporary period and shall not be paid if the employee does not return to their position immediately following the expiration of the period for which they were ordered to duty. Employees on military leave will adjust their work schedule to five eight hour days, 40 hours per week at their hourly rate of pay, excluding shift differential.

**6.17 Extended Military Leave Without Pay.** An employee who enters the state or United States armed services for an extended tour of duty is eligible for an extended military leave of absence, which may continue up to five years. Upon honorable discharge from service, the employee shall be returned to a position in the same range as their last position at the salary step prevailing for the position without loss of seniority or employment rights. If it is established that they are not physically qualified to perform the duties of their former position by reason of such service, the employee shall be reinstated in other work that they are able to perform at the nearest appropriate level of the pay of their former position. The employee shall make application for reinstatement within 90 days of discharge and shall report for work within six months following separation from active duty. Failure to comply will terminate the extended military leave. When an employee voluntarily reenlists or extends their period of military service, this military leave shall be deemed canceled. This rule shall apply so long as it does not violate 38 U.S.C. SS 2021-2026 pertaining to reinstatement of City employees returning from active duty. Employees on extended military leave without pay are not required to exhaust their leave banks prior to going on leave without pay.

**6.18 Military Family Leave (MFL).** Military Family Leave will be granted according to federal and/or state requirements. Employees should contact the Personnel Director for assistance as soon as the need for MFL is known. When a request has been made the Personnel Director will provide the employee with a written confirmation of whether the request is approved or denied and any necessary requirements.

**6.19 Family and Medical Leave of Absence (FMLA).** An employee may receive leave to attend to specified family and medical needs under the federal Family Medical Leave Act and State of Alaska family medical leave laws (the state and federal laws are collectively referred to as "FMLA" in these Regulations).

**6.19.1 Eligibility for FMLA.** An employee is eligible for FMLA leave if the employee has been employed for at least one year immediately preceding the leave and worked at least 1,250 hours during that year, or if the employee worked 35 hours a week for at least six consecutive months or for at least 17 ½ hour per week for at least twelve consecutive

months.

**6.19.2 Duration of FMLA.** The City shall permit an employee to take FMLA leave for a total of twelve work weeks within a twelve month period or eighteen workweeks within a 24 month period, whichever is greater. Where medically necessary, an employee may take leave on an intermittent or reduced schedule basis. In such cases, the City may transfer the employee for the duration of such leave to an available alternative position which better accommodates the employee's need for recurring periods of leave. Employees must contact the Personnel Director for assistance as soon as the need for FMLA leave is known. The Personnel Director shall provide an employee with written confirmation as to whether the request for leave is approved and any necessary requirements of such leave.

**6.19.3 Reasons for Taking FMLA.** FMLA leave is available to an eligible employee for the following reasons;

**6.19.3.1 Birth or Placement of a Child.** For pregnancy and the birth of a child of the employee or the placement of a child, other than employee's stepchild, with the employee for adoption or foster care. The right to take FMLA for pregnancy and childbirth, adoption or foster placement of a child expires one year after the birth or placement of the child. If a parent or child of two employees employed by the City has a serious health condition the maximum leave for both parents would be 18 work weeks. The City is not required to grant FMLA to both employees simultaneously.

**6.19.3.2 Illness of a Family Member.** In order to care for the employee's child, spouse, or parent who has a serious health condition; in this subsection, "child" includes the employee's biological, adopted or foster child, stepchild, or legal ward.

**6.19.3.3 Illness of an Employee.** Because of the employee's own serious health condition.

**6.19.4 Use of Other Leave.** The employee must exhaust all accrued leave and compensatory time before FMLA leave without pay is allowed. The accrued paid leave and compensatory time the employee is required to take will be counted toward the employee's FMLA entitlements. If an employee is entitled to FMLA leave that extends beyond the time the employee has exhausted their accrued paid leave, the employee will continue on unpaid FMLA leave for the remainder of the approved FMLA leave. Paid leave shall not accrue during the period of unpaid FMLA leave. Where appropriate, the City shall coordinate an employee's workers' compensation leave with FMLA leave so that the two run concurrently. FMLA leave shall run concurrently with any other qualifying leave.

**6.19.5 Job Restoration.** Upon returning from FMLA leave, an employee shall be restored to the employee's original job or an equivalent job with equivalent pay, benefits and other employment terms and conditions. After an employee returns from FMLA leave the employee's use of FMLA leave will not result in the loss of any employment benefits to which the employee would have been entitled if the employee had not taken leave. An

employee on FMLA leave must notify the City at least two weeks before the end of the leave of the employee's availability and capacity to return to work. Before returning to work from FMLA leave taken due to an employee's own serious health condition, the employee must provide the City with a fitness for duty certification from the employee's health care provider stating that the employee is able to perform the essential functions of the employee's position. An employee's failure to return from leave or failure to contact the City on the scheduled date of return will be considered a voluntary resignation.

**6.19.6 American with Disabilities Act (ADA).** The City will comply with all federal and/or state ADA requirements. Employees should contact the Personnel Director for information and/or assistance.

**6.19.7 Benefits.** During the approved FMLA leave the City will pay its portion of the employee's group insurance premiums. If an employee does not return from FMLA leave they may be required to reimburse the City the cost of group insurance premiums.

**6.19.8 FMLA or MFL Extension.** FMLA or MFL may be extended, upon written request, when accompanied by an explanation from the employee's healthcare provider of the need for an extension period. Even with an extension, however, a FMLA leave or MFL cannot exceed a total of six months. The City does not pay its share of any employee group insurance premiums during any extension of the FMLA leave or MFL. The employee is responsible for converting any group insurance coverage to individual coverage and prepaying each month of the premium during any extension period. Employees must arrange for a continuation of such coverage with the City prior to the commencement of the FMLA leave or MFL extension period.

**6.20 Personal Leave of Absence without Pay.** Under certain conditions the City Manager may grant an employee a personal leave of absence without pay for a specified period of time, not to exceed three months, except as provided in Section 6.21. A leave of absence must be requested in writing and submitted to the employee's immediate supervisor as soon as the need for leave is known. The City will exercise its discretion in deciding whether to grant any leave requested. The employee requesting personal leave must have a satisfactory work record, approval of their supervisor and a valid reason for requesting the leave. Circumstances determine the length of leave permitted. Group insurance coverage terminates at the end of the month in which the personal leave of absence begins. All accrued leave and compensatory time must be used prior to taking leave without pay. Accrual of leave benefits terminates when the personal leave of absence without pay begins. The employee who desires to convert their group coverage to individual coverage during the period of a personal leave of absence must make arrangements for prepaying their individual premium each month. Such arrangement should be taken care of before commencement of the personal leave of absence, but in no case later than 30 days after the end of the month in which the leave commenced. Employees returning from personal leave of absence are entitled to reemployment in their position. Employees on leave may return early if they notify their supervisor at least five working days in advance. Failure to return from leave on or before the agreed upon date, however, will be considered a voluntary resignation

**6.21 Sabbatical.** Under certain conditions the City Manager may grant an employee a sabbatical leave of absence without pay for any period up to one year. A sabbatical leave is expressly intended to extend or enhance the education/training of the employee for the benefit of the City. The employee requesting a sabbatical must have been employed by the City for at least five continuous years and have a satisfactory work record. The City Manager shall have the discretion whether to grant sabbatical requests on a case-by-case basis. Provisions of the sabbatical shall be outlined in a written Sabbatical Leave Agreement which shall include, but not necessarily be limited to health insurance, duration of sabbatical, purpose, and reinstatement to position. All accrued leave and compensatory time must be used prior to taking leave without pay.

**6.22 Change of Anniversary Date Because of Unpaid Leave of Absence.** If an employee takes a leave of absence without pay or sabbatical for more than 30 days during a calendar year, the employee's Anniversary Date shall be advanced by the number of days the leave without pay or sabbatical exceeds 30. For purposes of the Public Employees' Retirement System (PERS), a leave of absence without pay exceeding ten accumulated working days in any calendar year or layoff status authorized by the employer is considered an interruption of employment and no credited service will be granted by PERS for those periods of time unless the interruption was the result of work related injury or military leave.

**6.23 Retirement, Deferred Compensation, Life Insurance and Medical Benefits.** The City offers retirement, deferred compensation, group life insurance, and group medical insurance plans for full-time employees which are administered by the Personnel Director and approved by the City Council. Part-time employees are eligible to participate in the deferred compensation plans and medical insurance plan upon employment. Medical benefits for the employee only are available for all part-time 20, 24 and 28 hour employees based on a prorated cost. The Personnel Director will provide all eligible employees information concerning the programs. Participation in benefits is determined by the provisions of each specific benefit plan and regulations pertaining to the same. The City reserves its right to change or discontinue these benefits at any time.

## CHAPTER SEVEN

### PERFORMANCE EVALUATIONS

**7.1 Purpose.** The purposes of the performance evaluation are as follows;

**7.1.1** To improve the overall performance quality of the department in the delivery of public services;

**7.1.2** To improve the skills, knowledge and ability of the individual employee;

**7.1.3** To identify and resolve problems within the department; and

**7.1.4** To provide a record of pertinent information on which to make employment related decisions relevant to individual employees.

**7.2 Periods of Evaluation.** All full and part-time employees shall have their performance evaluated at the following times:

**7.2.1 Probationary Period.** The probationary period is the first six months of continual employment for all full-time employees except division of police services employees which shall be the first twelve months of continual employment. The probationary period for part-time employees shall be the first 1040 hours worked (the equivalent of six months) or 2080 hours worked for part-time division of police services employees. Casual and temporary employees are employed at will and do not receive a probationary period. In the Department Director's discretion, periods of casual or temporary employment in the same position as the position into which an employee is hired on a probationary basis may be considered part of an employee's probationary period. The initial probationary period may be extended as provided in Section 7.2.1.1.

**7.2.1.1 Extension.** If an employee's performance is less than satisfactory after the completion of at least two written evaluations the Department Director may upon consultation with the Personnel Director extend the probationary period up to an additional six months. The evaluation form should state the reason for the extension, further training required or goals to be met. Merit increases will not be approved until the successful completion of a probationary extension period.

**7.2.1.2 End of Probationary Period.** Each employee shall be evaluated within ten days prior to completion of their probationary period or any extension thereof under Section 7.2.1.1 of these regulations. The employee must have an overall evaluation of at least "satisfactory" at the end of the probationary period in order to be removed from probation or to continue in their position.

**7.2.1.3 Probationary Dismissal.** Probationary employees may be dismissed for any reason prior to completion of the probationary period, or any extension thereof on a recommendation of the supervisor or Department Director with concurrence of the

Personnel Director. The reason for dismissal must be stated in writing and given to the employee. The dismissal of a probationary employee is final and not subject to the grievance or appeal procedure.

**7.2.2 Annual.** Each employee shall receive an annual or 2080 hour performance evaluation within one month of their Anniversary Date.

**7.2.3 Special.** A special performance evaluation may be completed whenever there is a significant change upward or downward in the employee's performance or:

**7.2.3.1** When a supervisor leaves for another position they shall complete a performance evaluation on each employee under their supervision who has not been evaluated within the six months prior to the date the supervisor is to leave their position.

**7.3 Evaluation Form.** The evaluation shall be completed on a performance evaluation form supplied by the Personnel Office.

**7.4 Review of the Performance Evaluation.** The supervisor or Department Director completing the evaluation shall review the completed evaluation with the employee prior to its submittal to the Personnel Director and the City Manager.

**7.5 Unsatisfactory Evaluation.** An unsatisfactory evaluation may result in a disciplinary work plan, salary reduction, suspension without pay, a demotion, dismissal or other disciplinary measures depending upon the extent of the unsatisfactory performance and the number of unsatisfactory evaluations the employee has previously received. An employee with an unsatisfactory evaluation or on a disciplinary work plan is not entitled to a merit increase.

**7.6 Appeal Procedure.** If an employee believes an evaluation to be unfair or unrepresentative, the City will permit the employee to file a written reply to be attached to the evaluation form within five days of receiving the evaluation. Within five days of the employees reply the City will permit the supervisor to attach a rebuttal to the employees reply. No additional replies from the employee or supervisor will be attached. If an evaluation results in a salary reduction which the employee deems to be unfair, the employee may grieve such action as provided in Chapter 11 of these Regulations. The contents of the performance evaluation, however, are not subject to the grievance procedure. If an evaluation results in a contemplated demotion, dismissal or suspension without pay, prior notice shall be given and the employee shall have the right to a pre-deprivation meeting according to the procedures set forth in Chapter 10 of these Regulations.

## **CHAPTER EIGHT**

### **GENERAL CONDUCT**

**8.1 Attendance.** Employees are expected to work all assigned days. If an employee, for some unavoidable reason, cannot report for work, the employee is expected to notify his or her supervisor or Department Director as soon as possible. Absence from work without permission or without notice is considered a violation of these Regulations and could result in disciplinary action.

**8.2 Breaks.** Each employee is entitled to one, fifteen minute break for each four hour period worked. Breaks shall be taken at the job site or other approved site, but travel time to locations other than the job site shall be included in the break time.

**8.3 Appearance.** All employees shall be well groomed, neat and dress appropriately for their job duties. Each department may impose reasonable specific standards of dress and appearance.

**8.4 Uniforms and Uniform Maintenance.** Protective coverings and uniforms must be maintained by the employee. Those employees required to wear uniforms may be given a uniform allowance for maintenance and cleaning. In all cases, clothing and/or gear issued by the City remains the property of the City and must be returned upon termination. Lost articles must be replaced by the employee.

**8.5 Outside Employment.** The City Manager must approve any and all outside employment, including self employment, by any City employee. In order to be approved, the outside employment must conform to the following minimum conditions. Additional conditions may be imposed at the discretion of the City Manager.

**8.5.1** Outside employment must not interfere with the employees City work performance.

**8.5.2** Outside employment must not be conducted during employees scheduled City work hours.

**8.5.3** Outside employment must not reflect poorly on the City.

**8.5.4** City employment cannot be used to gain an unfair advantage for employees outside employment.

**8.5.5** City time, equipment and supplies cannot be used to benefit outside employment.

**8.5.6** Outside employment must always be secondary to City employment.

**8.5.7** Outside employment must not create a conflict of interest or the appearance of a conflict of interest with the City.

**8.5.8** Employee cannot use data or information obtained from City employment for the benefit of outside employment unless the information is available to the general public.

**8.6 Residency Requirements.** Employees shall be allowed to live outside the City if the employee lives in an area in which commuting to the City by normal means of transportation will enable the performance of job duties and, if the employee is likely to be called in for emergency situations involving job functions that employee lives within an area serviced by the local telephone company.

**8.7 Ethics and Conflict of Interest.** Employees should make every effort to assist the public and the City by providing their best effort in carrying out their responsibilities. It is the responsibility of every city employee to honestly, faithfully and impartially discharge their assigned duties. It shall be the responsibility of each City employee to remain free from indebtedness or favors which would tend to create a conflict of interest between personal and official interest or might reasonably be interpreted as affecting the impartiality of the individual employee. If an employee is tendered or offered a gift or gratuity which would, in the eyes of the public or in the eyes of public officials, be construed as an attempt to bribe, influence, or to encourage special consideration with respect to municipal operations, such offer shall be immediately reported to the employee's supervisor who in turn will inform the Department Director and the City Manager. Employees should also abide by the following regulations:

**8.7.1** Employee should notify the Department Director prior to participating in any City action in which the employee has a financial interest and the Department Director will make a determination of the appropriate action to be taken

**8.7.2** No employee shall attempt to influence the City's selection of any bid or proposal or the City's conduct of business, in which the employee has a financial interest

**8.7.3** No employee shall use the implied authority of their position to unduly influence the decision of others or promote a personal interest in the community

**8.7.4** No employee shall disclose information they know to be confidential concerning the operations of the City unless authorized or required by law to do so

**8.7.5** No employee shall accept a gratuity from any person engaging in business with the City or having a financial interest in a decision pending with the City. This does not prohibit accepting the following items unless departmental policy prohibits such acceptance; a meal, discounts or prizes that are generally available to the public, gifts presented by employer in recognition of meritorious service or other civic or public awards, an occasional gift of less than \$50.00 in value.

The City takes complaints of ethics violations very seriously. Every effort should be made to follow the chain of command when reporting a violation of this section. Employees may also file a complaint or discuss or express any issue of concern with the Personnel Director. Any complaints from the public regarding violations of this section should be referred to the Personnel Director. The City prohibits any form of retaliation against any employee for filing a complaint under this policy or for assisting in a complaint investigation. However, if after investigating any complaint of ethics violations, the City determines the complaint was not made in good faith or that an employee

has provided false information regarding the complaint, disciplinary action may be taken against the individual who filed the complaint or who gave false information.

**8.8 Ethics Complaint Procedure.** An ethics complaint will be handled in the following manner:

**8.8.1 Step 1.** The employee or member of the public filing an ethics violation should provide a written complaint to their immediate supervisor, Department Director or the Personnel Director.

**8.8.2 Step 2.** The supervisor or Department Director will forward the complaint to the Personnel Director within five working days after receiving the complaint.

**8.8.3 Step 3.** Within five working days of receiving the complaint the Personnel Director will file the complaint with an Ethics Committee formed to address the complaint. The Ethics Committee shall be composed of the Personnel Director and three Department Directors not involved with the allegations in the complaint. The Committee shall select a chair from its members. The Committee shall meet within fifteen working days of notification by the Personnel Director to review the complaint and all relevant evidence presented in support of the complaint. The Committee may call witnesses. The employee charged with the ethics violation shall have the opportunity to present their position and any supporting facts and/or evidence. The meeting will be closed to the public.

**8.8.4 Step 4.** The Committee will provide a written finding to the City Manager within five working days of the close of the committee hearing. If disciplinary action is recommended the City Manager shall follow the procedure set forth in Chapter 10 of these Regulations. The findings of the committee are confidential and will not be disclosed to the public. The City Manager may issue a brief written statement to the public or the parties involved which will state only whether the allegations were unfounded or if founded that appropriate disciplinary action was taken.

**8.9 Political Activity.** An employee may not:

**8.9.1** Be required to contribute to any political fund as a condition of employment

**8.9.2** Be a candidate for elective City municipal office

**8.9.3** Contribute financially to or take part in a campaign for any City elective municipal office other than by voting

**8.9.4** Be a member of any policy making board, council, commission or other governing body that may be interpreted as representing the City and/or receiving appropriations from the City unless such membership is approved by the City Manager

**8.10 Oath of Office.** Under the requirements of Resolution 07-54 all Department Directors and specific key City employees must sign an oath of office to honestly, faithfully and impartially

discharge their duties.

**8.11 Legal Liability.** Employees shall abide by all laws and regulations which govern the performance of their duties and shall perform their duties as reasonable, prudent persons. Defense and indemnity of employees for legal claims relating to their employment shall be governed by Chapter 1.10 of the City Code.

**8.12 Use of City-Owned Equipment.** Personal use of City equipment or vehicles is not permitted without written approval from the City Manager or unless otherwise provided by contract. All City equipment including but not limited to computers, e-mail, voice mail, vehicles, desks, lockers and cabinets are the property of the City and as such the City has the right to monitor or search at any time for any reason.

**8.13 Office Technology Policy.** Employees are required to use City technology including, but not limited to, Internet, email and cell phones in an appropriate, legal, ethical and professional manner. Employees should exercise the same restraint and caution in drafting and transmitting messages over the Internet as they would when writing a memorandum and should assume that their message will be saved and viewed by someone other than the intended recipients. City business conducted on personal technology equipment is subject to the office technology policy. The following policies have been established for use of City technology.

**8.13.1 Right to Monitor.** City technology including, but not limited to, Internet, E-mail or cell phone use is not guaranteed to be private or confidential. All electronic communications are City property. Therefore, the City reserves the right to examine, monitor and regulate e-mail messages, directories and files, as well as Internet and cell phone usage without permission of the employee. Employees are prohibited from using passwords or security measures that restrict the City's access to its property.

**8.13.2 Discrimination or Harassment.** City technology including, but not limited to, Internet, e-mail and cell phones may not be used for transmitting, retrieving or storing of any communications of a defamatory, disparaging, abusive, profane, offensive, discriminatory or harassing nature or materials that are obscene or X-rated. No messages with derogatory or inflammatory remarks about an individual's race, age, disability, religion, national origin, physical attributes or sexual preference shall be transmitted.

**8.13.3 City's Best Interest.** Publication or distribution of information that would adversely or negatively reflect upon the City or be contrary to the City's best interest or which is identified as confidential by the City is prohibited.

**8.13.4 Illegal Activities.** Illegal activities including, but not limited to, piracy, cracking, extortion, blackmail, copyright infringement on city technology is forbidden.

**8.13.5 Copyright.** Copyrighted materials belonging to entities other than the City may not be transmitted by employees on the City's network. All employees obtaining access to other companies' or individual's materials through their employment with the City must respect all copyrights and may not copy, retrieve, modify or forward copyrighted materials, except with permission or as a single copy to reference only.

**8.13.6 Disruption.** No use of the system in a way that disrupts its use by others. This includes excessive dial-in usage, sending or receiving large files and "spamming" (sending e-mail messages to thousands of users).

**8.13.7 Employee Responsibility.** Each employee is responsible for the content of all text, audio or images they place or send over the City's Internet, e-mail or cell phone system. No e-mail or other electronic communications may be sent which hides the identity of the sender or represents the sender as someone else. Also, be aware that the City's name is attached to all messages so use discretion in formulating messages.

**8.13.8 Public Records.** Internal and external e-mail messages are considered business records and may be subject to discovery in the event of litigation. Be aware of this possibility when sending e-mail within and outside the City.

**8.13.9 Personal Use.** Employees are prohibited from using City technology for fundraising, union, political campaign, religious or for business or profit-making activities. City property cannot be used for any purpose that would violate any federal, state or local law.

**8.13.10 Downloading Software.** Employees are prohibited from downloading software and games on City technology without prior approval of the Systems Manager. If the employee finds that any damage occurred as a result of downloading software or files, the incident should be reported immediately to the Systems Manager.

**8.13.11 Remote Access for Workers.** The City may allow with supervisor approval, remote access to desktop computers and servers within the City. If the employee's personal computer is accessible by family members make sure the remote connection is password protected. Though the remote connection is secured, the same rules apply when working at home on City related work as they do when in the office.

**8.13.12 Discipline.** City policies are in effect at all times while using City technology. Any employee who abuses the privilege of City facilitated access to e-mail, cell phones or the Internet, may be denied access and, if appropriate, be subject to disciplinary action up to and including termination.

**8.14 City Vehicles.** On-call personnel, Department Directors and Police Officers may be issued the use of City vehicles for conducting City business and for driving to and from work. City vehicles should not be used for personal use. However, it is expected that employees may occasionally transport family members or stop at the store while they are traveling to and from work but this should be kept to a minimum and not become a daily occurrence. When issued a city vehicle the employee shall; use the seat belt device and require any passengers to do the same, monitor fuel, fluids and tire pressure, immediately notify the employee's supervisor of any malfunctions or accidents, keep the interior of the vehicle clean, operate the vehicle in accordance with application State and laws, refrain from smoking in City vehicles and immediately notify supervisor of any change in driver's license status, including suspension, revocation, or restriction.

**8.15 Cost Consciousness.** City employees shall practice every economy practical in the discharge of their duties. Employees are encouraged to recommend to their supervisors work

procedures which will result in a cost savings or improved service to the public.

**8.16 Safety.** Department Directors shall be responsible for the development and maintenance of a safety program for their department as necessary. The program shall include safety regulations and discipline controls. Department Directors, supervisors and employees shall guard the safety of themselves, fellow employees and the public. No employee shall bring to the worksite on their person or in their belongings any non-job related weapons of any type, for example; firearms or knives with blades over four inches.

**8.17 Work Accidents/Injuries.** When accidents occur on City property or while conducting City business, the employee shall contact their supervisor immediately.

**8.17.1 Employee Injury/Accident.** The employee and their supervisor shall complete an accident report form and file a worker's compensation form with the Personnel Office within 24 hours of notification of the accident/injury. In the case of a motor vehicle accident, the Police Department shall be notified immediately. Employees unable to work must provide a written notification from their health care provider with the type of restrictions and length of off-duty status. If an employee is unable to work due to an on the job injury the employee will be paid by the City for the first three days off work. The City's workers compensation carrier will provide statutory benefits for any days over three that an employee is unable to work. Prior to returning to work the employee must provide written notification from their health care provider stating the employee is able to perform the essential functions of the employees' position. If the employee is able to return to limited duty with approval from their health care provider the Department Director will determine if limited duties are available.

**8.17.2 Equipment.** The employee and their supervisor shall complete an accident report form within 24 hours of notification of the accident and forward the report to the Finance Department for reporting to the City's insurance carrier. In the case of a motor vehicle accident, the Police Department shall also be immediately notified.

**8.18 Solicitations.** In order to maintain an orderly work environment, protect employee privacy and preserve security throughout City's offices and departments individuals not employed by the City may not at any time solicit, petition, or distribute literature in non-public access work areas, except for bona fide City purposes and with the prior authorization of the City Manager.

**8.18.1** Employees may not solicit for any purpose other than City related business during working time. Reasonable forms of solicitation between employees will be permitted during nonworking time, such as before or after work or during authorized meal or break periods.

**8.18.2** Employees may not distribute literature for any purpose other than City related business during working time, or at any time in work areas.

**8.19 Personal Business.** Employees are expected to conduct their personal business during nonworking hours. Personal calls, personal cell phone use and electronic texting is discouraged during work hours. Cell phone ring tones should be minimized to avoid disrupting the work

environment. Breaks, lunch and leave time are available to employees for personal business.

**8.20 Personal Items/Equipment.** The City does not insure employee's personal items or equipment including personal vehicles used for City business. Employees should consider this prior to bringing personal items or equipment to the workplace or using personal vehicles for City business. Exceptions are the public works mechanics' and port maintenance technicians' tools. Inventory lists shall be provided on a regular basis to the Finance Department after approval by supervisor.

**8.21 Drug Free Workplace.** In accordance with the Drug-Free Workplace Act of 1988, the City will maintain a Drug-Free Workplace. The Homer City Council adopted the following statement (directive in nature) to all employees:

The unlawful manufacturing, distributing, dispensing, possessing, or using of a controlled substance is prohibited and will not be tolerated in any City workplace. The City's policy is designed to maintain a safe, healthful, and productive work environment, and any employee affected by an addiction or dependency on controlled substances are strongly urged to seek assistance through the appropriate community health services. Any employee convicted of a drug violation for an action occurring in a City workplace shall notify their supervisor within five days after such conviction. The City will take appropriate personnel action in accordance with personnel regulations against employees so convicted within 30 days after receiving the notification. Compliance with this directive is a condition of employment. Disciplinary action up to and including discharge for cause will be used as necessary in implementing this directive. All City Department Directors and supervisors shall be responsible for ensuring that their employees are made aware of this directive, and copies should be posted on departmental bulletin boards.

**8.22 Commercial Drivers License (CDL) Drug and Alcohol Testing Policy.** Employees that are required to have a CDL for their position or maintain CDL equipment are subject to the City's CDL Drug and Alcohol Testing Policy under the U.S. Department of Transportation, Federal Highway Administration, regulations detailed in 49 CFR 40. CDL employees will be required to sign a CDL Drug and Alcohol Testing Policy upon employment and are subject to pre-employment, return to duty, random, reasonable suspicion and post accident drug testing. Employees that test positive for drug or alcohol will be immediately removed from their safety sensitive positions per federal requirements pending an investigation and subject to disciplinary action.

**8.23 Smoking Prohibited.** Smoking is prohibited in city owned buildings, vehicles and watercraft under City code Section 5.05.



## CHAPTER NINE

### DISCRIMINATION AND HARASSMENT COMPLAINTS

**9.1 Equal Opportunity Policy.** The City is an equal opportunity employer as required under section 1.38.020 of the City Code. Recruitment and selection of applicants, promotion and training of employees is based upon ability, knowledge, skills and merit as required by the job description. A person may not be favored or discriminated against with respect to City employment because of the person's race, color, creed, religion, gender, national origin, veteran or marital status, physical handicap or any other status protected by federal, state or local law.

**9.2 Anti-discrimination and Anti-harassment Policy.** The City maintains a work environment free from unlawful discrimination and harassment for all employees. All employees have the right to work in an environment free from discrimination, intimidation or harassment that is based upon a protected status.

**9.3 Definitions.** For purposes of this chapter, the following words or phrases shall have the following meaning:

**9.3.1 City Official.** For purposes of this chapter, a city employee at the supervisory or managerial level.

**9.3.2 Complainant.** The individual or group who is alleged to be a victim of illegal discrimination.

**9.3.3 Compliance Agency.** A local, state or federal agency authorized by law to investigate formal complaints of discrimination. The following are examples of compliance agencies: Alaska State Commission for Human Rights (ASCHR); Federal Equal Employment Opportunity Commission (FEEOC); and the Office of Federal Contract Compliance Programs (OFCC). Other federal agencies have certain investigative responsibilities on matters relating to grants or programs that they administer.

**9.3.4 Formal Complaint.** A complaint relating to City employment or application for City employment filed with a compliance agency alleging illegal discrimination on the basis of a protected status.

**9.3.5 Illegal Discrimination.** An act or acts which are prohibited by federal, state or local anti-discrimination laws. Prohibited acts include those where individuals or groups are treated differently because of their race, religion, color, gender, national origin, age, handicap, marital status, changes in marital status, pregnancy, or parenthood or any other status protected by federal, state or local law.

**9.3.6 Informal Complaint.** A complaint relating to City employment or application for city employment alleging illegal discrimination on the basis of a protected status that has not been filed with a compliance agency.

**9.3.7 Respondent.** The City or any of its departments identified in a formal complaint. Specific individuals may also be listed as respondent.

**9.4 Harassment Definition.** Prohibited harassment consists of unwelcome verbal or physical conduct or communication based upon an employee's race, color, creed, religion, national origin, gender, physical or mental disability, age marital status, pregnancy or parenthood, veteran's status, status with regard to public assistance, or any other status protected by federal, state or local law. Examples of conduct prohibited by this policy include using racial and ethnic slurs, offensive stereotypes or making jokes about such characteristics.

**9.5 Sexual Harassment Definition.** Sexual harassment is a form of harassment that is prohibited under these regulations. Sexual harassment encompasses unwelcome sexual advances, request for sexual favors, and other verbal, visual, written or physical conduct of a sexual nature where:

**9.5.1** Such conduct is unwelcome; and

**9.5.2** Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or

**9.5.3** Submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment; or

**9.5.4** Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive work environment. A hostile work environment occurs when the conduct is sufficiently severe or pervasive enough to alter the condition of the employee's employment and create an abusive work environment.

**9.6 Sexual Harassment Examples.** Examples of the type of conduct prohibited by this policy may include, but are not limited to, the following:

- Sexually suggestive touching
- Offensive whistling
- Lewd, off-color, sexually-oriented comments, jokes, or cartoons
- Excessive use of foul or obscene language
- Leering, staring, stalking
- Suggestive or sexually explicit posters, calendars, photographs, graffiti, cartoons
- Unwanted or offensive letters or poems
- Sitting or gesturing sexually
- Sexually explicit or suggestive email or voicemail messages
- Sexually oriented or explicit remarks, including written or oral references to sexual conduct, gossip regarding one's sex life, body, sexual activities, deficiencies, or prowess
- Repeated requests for dates
- Sexual favors in return for employment rewards, or threats if sexual favors are not provided
- Sexual assault or rape

## **9.7 Responsibilities.**

**9.7.1** All City employees at all levels shall report allegations and acts of discrimination. An employee who feels he or she is being harassed or discriminated against or is aware of activities in the workplace that may constitute harassment or discrimination shall report the perceived discrimination or harassment immediately to their supervisor, Department Director, Personnel Director, City Manager or any City Official (as defined by this chapter) that the employee feels comfortable reporting to.

**9.7.2** All City Officials shall take immediate action when they become aware of a situation involving allegations and/or acts of discrimination.

**9.7.3** The Personnel Director shall provide technical assistance and support to City Officials, employees, and complainants in their efforts to resolve complaints of discrimination, and cooperate with compliance agencies in processing and investigating formal complaints of discrimination.

**9.7.4** The City Attorney shall provide legal advice and assistance as requested by the Personnel Director or as the City Attorney's Office deems necessary.

**9.8 Procedure for Informal Complaints.** City employees may make appointments with any City Official during the workweek to report harassment or discrimination in the workplace. If, for any reason, the City Official to whom the employee wishes to report the discrimination or harassment is unable to meet at the initial time requested, the City Official shall reschedule an alternate meeting time with the employee that is no more than five working days after the initial request.

### **9.8.1 Processing Informal Complaints of Discrimination.**

**9.8.1.1** When a City Official becomes aware of an allegation of discrimination, immediate action shall be taken to notify the Personnel Director, or in the event the Personnel Director is involved in the allegations in the complaint, the City Manager, to review and attempt to resolve the allegation. The reviewing City Official shall advise complainant and respondent in the writing of the results of the review.

**9.8.1.2** A complaint must be filed within 180 days of the date the incident occurred to be considered for informal review.

**9.8.1.3** Upon receipt of an informal complaint of discrimination from a complainant or at the request of a City Official, the Personnel Director or other appropriate City Official shall assist the parties in an attempt to resolve the issues raised by the complainant.

**9.8.1.4** The Personnel Director shall make every effort to resolve an informal complaint within 30 calendar days from the date the complainant files the complaint. The Personnel Director or other appropriate City Official will inform the

employee of their right to file a formal complaint with a compliance agency.

**9.9 Procedure for Formal Complaints.** City employees must make arrangements with their supervisors when they wish to schedule official duty time to consult with a compliance agency on matters relating to a formal complaint for harassment or discrimination. When an employee cannot be released at the requested time, an alternate time should be scheduled within five working days of the time originally requested.

**9.9.1** The Personnel Office will be the central point for receiving complaints, interrogatories and requests for information or documents from compliance agencies. City departments will forward all information pertaining to a complaint to the Personnel Director who will coordinate and forward the materials prepared in response to the compliance agency request within the time frame required.

**9.9.2** Any City employee named as a respondent in a complaint will be expected to assist the department in its effort to expeditiously review and, if possible, resolve the issues listed in the complaint. However, no employee shall be expected to waive any of their personal rights.

**9.9.3** The City Attorney's Office will retain a file of each formal complaint received in which a City department or employee is listed as respondent. Legal advice and assistance will be provided to the City Manager, Personnel Director or any department as requested, or as the City Attorney's Office deems necessary. In all cases where a compliance agency takes a complaint to public hearing when the City is a respondent, the City Attorney's office will represent the City and the respondent department.

**9.10 Retaliation.** The City prohibits any form of retaliation against any employee for reporting or participating in a proceeding connected with a matter of public concern pursuant to Section 1.15 of the City Code. However, if the City determines that the complaint was not made in good faith or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the complainant or the individual(s) who gave the false information. Any decision which constitutes an adverse action against an employee who has a current informal or formal complaint of discrimination pending must be approved by the City Attorney's office. All City Officials should avoid actions that might be construed as retaliatory against the complainant.

**9.11 Annual Review Date.** The Personnel Director will review this chapter in April of each year for any needed revisions.

## **CHAPTER TEN**

### **DISCIPLINE - CAUSES AND ACTIONS**

**10.1 Discipline Policy.** When an employee's performance or conduct falls below desirable standards, the employee may be subject to disciplinary action. The nature or severity of the disciplinary action depends upon the severity of the offense as well as the number and frequency of previous acts of misconduct.

**10.2 Oral Warning.** An employee may be informed orally by their supervisor of the unacceptable behavior or performance and what must be done to correct the situation. This initial counseling session shall be considered an oral warning and the supervisor shall make a written note of the warning and place it in the employee's personnel file.

**10.3 Written Warning or Disciplinary Work Plan.** An employee who has either ignored an oral warning or whose conduct is severe enough to warrant more serious action than an oral warning may receive a written warning or a disciplinary work plan. The written warning or the documentation regarding the disciplinary work plan shall explain how the full or part-time employee's behavior has been unacceptable and what must be done to correct the situation. A disciplinary work plan must be for a specific period of time, may not exceed one year and should provide the dates for performance reviews while on the work plan. The employee must have an overall performance review of at least "satisfactory" at the end of the disciplinary work plan in order to continue their employment. A copy of the written warning or disciplinary work plan shall be given to the employee and a copy placed in the employee's personnel file.

**10.4 Employee Response to Warning or Disciplinary Work Plan.** Oral and written warnings and disciplinary work plans are not subject to the grievance procedure. An employee may file a written reply within five working days of receiving the warning or disciplinary work plan. The employee's written reply will be attached to the warning or disciplinary work plan and placed in the employee's personnel file.

**10.5 Suspension Without Pay, Demotion, Dismissal.** An employee may be suspended without pay, demoted or dismissed for cause by the Department Director with approval by the Personnel Director if previous counseling or discipline has not resulted in the expected improvement or if the seriousness of the specific incident or the whole pattern of such employee's past performance and conduct justifies the imposition of more severe disciplinary actions in the first instance. When an employee is suspended without pay, demoted or dismissed for cause, the Department Director shall follow the procedure set forth in Section 10.6 of these Regulations. If suspended without pay the employee may not use leave time, receive holiday pay or accrue leave while on suspension. Reasons for suspension without pay, demotion or dismissal may include but are not limited to:

**10.5.1** Drinking intoxicating beverages or use of nonprescription depressant, or misuse of prescription stimulant, hallucinogenic or narcotic drugs on the job or arriving on the job under the influence of intoxicating beverages or such drugs .

**10.5.2** Discrimination or harassment on the basis of a protected status (Refer to Chapter 9 of these Regulations).

**10.5.3** Insubordination, willfully disobeying the directive of a supervisor by a verbal or nonverbal refusal or unreasonable delay in completing work. An employee's refusal to follow a directive that is illegal or a violation of City Code or written policy shall not be considered insubordination.

**10.5.4** Excessive absences or tardiness.

**10.5.5** Inability to perform the assigned job.

**10.5.6** Being wasteful of material, property or working time.

**10.5.7** Falsification of information on employment application or resume.

**10.5.8** Conviction of a felony or a misdemeanor involving moral turpitude.

**10.5.9** Being absent from work without permission or failing to report to supervisor or Department Director.

**10.5.10** Inability to get along with fellow employees or the public so that work being performed is hindered or below required standards.

**10.5.11** Exhibiting behavioral problems to employee's supervisor, co-workers or the public which hinder the employee's or the City's performance.

**10.5.12** Violation of the Personnel Regulations, written departmental rules or any other applicable federal, state or local laws.

**10.5.13** Falsification of time sheets.

**10.5.14** Sexual discrimination or racial harassment of co-workers or the members of the public (Refer to Chapter 9 of these Regulations)

**10.5.15** Violations of written departmental safety procedures that endanger the employee, co-workers or the public.

**10.5.16** A violation of any section of the General Conduct requirements in Chapter 8 of these Regulations.

**10.5.17** A violation of the Commercial Drivers License (CDL) drug and alcohol testing policy.

**10.6 Pre-Deprivation Hearing.** Before a full or part-time employee is suspended without pay, demoted or dismissed for cause, the employee shall be given written notice of the contemplated personnel action by the Department Director. The written notice shall state what personnel action is contemplated, describe the reasons for such action, and advise that the employee is entitled to a

hearing with the City Manager upon written request. The written notice shall also inform the employee that if no hearing is requested within five working days after receipt of the written notice, the personnel action will become final. The written notice of the contemplated personnel action shall be personally delivered to the employee or, if unavailable at work, sent by certified mail return receipt requested to employee's last known home address. Notices mailed to the employee's home address will be considered received on the acceptance date of the certified mail receipt. A copy of the written notice and the means of delivery or attempted delivery shall be placed in the employee's personnel file. The hearing shall be scheduled by the City Manager and held not more than ten working days after the City Manager's receipt of the written request for a hearing, except by mutual agreement.

**10.6.1** If the full or part-time employee files a timely request for a hearing with the City Manager, the contemplated personnel action shall not become effective until the City Manager has completed a review and issued a written decision. If the employee does not file, or files an untimely request for pre-deprivation hearing the contemplated personnel action shall become effective and final upon the expiration of the five working day period and the employee shall be deemed to have waived the right to a pre-deprivation hearing and the right to appeal.

**10.6.2** At the pre-deprivation hearing the Department Director shall state the reasons for the contemplated personnel action and recite the facts in support. The employee shall have an opportunity to present their position and any supporting facts. Witnesses may be called to testify by either party, however witnesses cannot be compelled to testify or appear. The hearing shall be closed to the public. The City Manager will issue a written decision within five working days after the pre-deprivation hearing.

**10.7 Administrative Leave With Pay.** In a situation where, in the Department Director's opinion and with City Manager approval, the employee's continued presence on the job during an administrative investigation or prior to the effective date of the contemplated personnel action poses a significant and immediate threat to public health or safety, a co-worker, city property, or to the efficient and harmonious conduct of City business, the employee may be placed on administrative leave with pay at their hourly rate of pay, excluding shift differential, prior to the effective date of the contemplated personnel action. If an employee is terminated after being placed on administrative leave with pay all leave accrued from the date the administrative leave with pay began until the termination date shall be forfeited. Only leave that has accrued prior to the administrative leave with pay date shall be paid to employee upon termination.

**10.8 Appeal of Disciplinary Action.** Any appeals of personnel actions taken under Section 10.6 of these Regulations involving suspensions without pay, demotions, or dismissals shall be submitted to arbitration under Section 11.5 of these Regulations. The appeal shall be initiated by filing a written request for arbitration with the Personnel Director within five working days of the City Manager's decision. The request for arbitration shall contain the information required by Section 11.5.1 of these Regulations. Filing a request for arbitration shall not suspend the effect of the City Manager's decision.



## **CHAPTER ELEVEN**

### **COMMUNICATION, GRIEVANCE AND APPEAL PROCEDURE**

**11.1 Purpose and Policy.** It is recognized that communication of constructive suggestions and problems contributes significantly to improving the overall quality of work performed and conditions of employment. It is the policy of the City to provide appropriate avenues of communication to meet a variety of needs. It is the desire of the City to resolve problems and pursue suggestions through an informal process where such a process is in the best interest of the City and its employees. Formal procedures are provided for those situations when the informal process is not appropriate. Employee(s) may file a grievance or a civil rights complaint. Civil rights discrimination complaints may be made under Chapter Nine. Employees should refer to section 1.15 of the Homer City Code for information regarding Protection for Whistleblowers.

**11.2 Employee Communications.** All employees are encouraged to communicate any problems or complaints they may have to the City, utilizing the procedures outlined in these Regulations. All employee suggestions or complaints will be given full consideration by City management. Any time an employee has a question, problem or complaint, the employee should do the following:

**11.2.1** Consult with employee's immediate supervisor. Generally the employee and supervisor will be able to resolve the problem. If the problem is not solved at this level;

**11.2.2** The employee may request a meeting with their Department Director to resolve the problem. If the employee receives no satisfaction at this level;

**11.2.3** The employee may request a meeting with the City Manager and/or Personnel Director to resolve the problem. The final determination will be made by the City Manager.

**11.3 Definition of Grievance.** A grievance is a complaint by a full or part-time employee or group of employees alleging a violation of federal, state, local laws or these Regulations which pertain to the terms and conditions of employment with the City. Temporary, casual, seasonal and probationary employees are employed at will and are not entitled to the grievance procedure. The following matters are exempt from the grievance procedure:

1. Disputes relating to the contents of a performance evaluation (Refer to Chapter 7)
2. Oral or written warnings or an employee being placed on a disciplinary work plan (Refer to Chapter 10)
3. Disputes relating to suspension without pay, demotion or dismissal for cause which are processed under the pre-deprivation hearing procedure, in Chapter 10.
4. Disputes which relate to the City's right to establish or change personnel or business policies, practices, rules or regulations.
5. Any other matter which, according to these Regulations, is not subject to the grievance procedures.

**11.4 Grievance Procedure Steps.** A grievance shall be handled in the following manner:

**11.4.1 Step 1.** The aggrieved employee(s) shall present the grievance orally to their immediate supervisor within five working days of its occurrence, not including the day of the occurrence. The supervisor shall give an oral reply within five working days of the date of presentation of the grievance, not including the date of the presentation. If the grievance is resolved at Step 1, the supervisor shall prepare a memorandum to the grievant(s) setting forth the terms of the resolution. A copy of this memorandum should be sent to the Department Director and Personnel Director at the time it is sent to the grievant.

**11.4.2 Step 2.** If the grievance is not settled in Step 1, the employee(s) must submit the grievance in writing, dated and signed by the aggrieved employee(s). The written grievance shall be presented to the Department Director within five working days after the supervisor's oral reply is given not including the day the answer is given. The Department Director shall reply in writing to the grievance within five working days of the date of the presentation of the written grievance, not including the day of the presentation. If the grievance is resolved at Step 2, the Department Director shall prepare a memorandum to the grievant(s), setting forth the terms of the resolution. The Personnel Director should be provided a copy of this memorandum at the time it is sent to the grievant(s).

**11.4.3 Step 3.** If the grievance is not settled in Step 2, the grievance may be presented in writing to a committee. The grievance should be presented to the Personnel Director who will form a committee composed of a City employee not affected by the grievance selected by the aggrieved employee(s), the Personnel Director and a Department Director not associated with the department involved within seven days of receiving the grievance. This committee shall select a chair from its members. The committee shall meet within five working days of receiving the grievance to review all pertinent correspondence, records and information. The committee shall present its recommendations along with all pertinent correspondence, records, information and an audio recording of the committee's meeting to the City Manager within five working days of the hearing. The City Manager shall reply to the grievant(s) in writing within ten working days of the presentation of the written recommendation from the Committee. A copy of City Manager's reply shall be sent to the Personnel Director at the time it is sent to the grievant(s). The employee may choose to skip the committee process. In that event, the employee shall go directly to the City Manager with the grievance.

**11.4.4 Step 4.** If the grievance is not settled in Step 2 and the aggrieved employee(s) elects not to utilize the grievance committee process of Step 3, the matter may be appealed in writing to the City Manager within five working days of the date the employee receives the Department Director's written decision. The aggrieved employee(s) should submit a written request for a hearing with the City Manager to the Personnel Director. The aggrieved employee(s) should attach copies of all information pertaining to the grievance to the request. The City Manager will schedule a hearing within ten working days of receiving the request. At the hearing the employee(s) will state the reasons for the grievance. The Department Director shall have an opportunity to present their position. Witnesses may be called to testify by either party, however witnesses cannot be compelled to testify or appear. The hearing shall be closed to the public. The City Manager shall reply to the grievance in writing within seven working days of meeting with the grievant(s). Copies of the written decision shall be given to

the grievant(s), the Department Director and the Personnel Director.

**11.4.5 Step 5.** If not satisfied with the City Manager's decision the aggrieved employee(s) may request arbitration pursuant to the procedures outlined in Section 11.5.

**11.5 Arbitration Procedures.** An employee may request arbitration of any unresolved grievances after completion of Step 3 or Step 4. The procedures for arbitration are as follows:

**11.5.1** The employee(s) shall send a written request for arbitration to the Personnel Director explaining the specific unresolved grievance and referring to any provisions of the Personnel Regulations or any other law applicable to the grievance. The request shall be submitted to the Personnel Director within five working days of the City Manager's decision.

**11.5.2** Within five working days of receipt of a request for arbitration, the Personnel Director shall forward the request, together with the appropriate administrative fee, to the American Arbitration Association (AAA) for the initiation of arbitration proceedings. AAA proceedings shall be conducted by an arbitrator located in the State of Alaska unless, despite reasonable efforts by both parties, a qualified arbitrator located in the State of Alaska cannot be found. In lieu of submission to AAA, the grievant and the City Manager may agree to submit the matter to an arbitrator(s) to be selected by mutual agreement.

**11.5.3** The arbitration shall be held at City Hall unless space is unavailable in which case the arbitrator shall select another location in the City. The aggrieved employee(s), the affected Department Director, City Manager and Personnel Director shall be entitled to be present at the arbitration. The aggrieved employee(s) and the City Manager may each have, as an assistant, one person to be in attendance at the arbitration. Either or both parties may be represented by an attorney in lieu of the assistant. The arbitration shall be closed to the public unless the aggrieved employee(s) requests the arbitration to be open to the public.

**11.5.4** The arbitration shall be conducted by the arbitrator in whatever manner will most expeditiously permit full presentation of the evidence and argument of the parties. Witnesses may be called to testify by any party; however, witnesses cannot be compelled to testify or appear.

**11.5.5** The arbitration shall be conducted under the AAA Employment Arbitration Procedures unless a different rule or procedure is set forth in the City Code or the Personnel Regulations. In the case of any inconsistency, the City Code and the Personnel Regulations, in that order of priority, shall prevail over the AAA Employment Arbitration Procedures. The Personnel Director shall make copies of the Employment Arbitration Procedures available to any City employee upon request.

**11.5.6** Post hearing briefs shall be submitted by the parties only if ordered by the arbitrator.

**11.5.7** The arbitrator shall have no authority to amend, modify, nullify, or ignore provisions of law, ordinances, or Personnel Regulations. The arbitrator shall consider and decide only the specific issue(s) submitted and has no authority to decide issues not submitted.

**11.5.8** The arbitrator's award shall include a summary of the arbitrators' findings and conclusions. All expenses of the arbitration, not including attorney's fees and expenses for witnesses, shall be paid by the City. If the City is the prevailing party, then each employee who is a party to the grievance shall reimburse the City \$600.00 of expenses of the arbitration, which include AAA administrative and arbitrators' fees, travel and other expenses but no more than the total actual cost of the arbitration fees. Payment is due from the employee within 30 days of the grievance decision from the arbitrator. Each party shall bear its own attorney's fees and the expenses of producing witnesses called on its behalf.

**11.5.9** Copies of the arbitration decision shall be personally delivered or mailed to the parties directly affected by the arbitration, the Personnel Director and the City Manager. The Personnel Director shall provide informational copies to the City Council. The arbitration decision shall be a public record.

**11.6 Enforcement of Arbitrator's Decision.** The arbitrator's decision is final and binding on all parties. The award may be enforced under AS 09.43.110.170.

**11.7 Standard of Review.** The arbitrator may exercise independent judgment in the finding of facts. In all other aspects of the decision, the standard of review to be applied by the arbitrator shall be whether the decision, action or inaction of the City was arbitrary or capricious or in violation of these Personnel Regulations, or applicable constitutional guarantees, statutory law, City Code or the common law.

## CHAPTER TWELVE

### SEPARATION FROM EMPLOYMENT

**12.1 Resignations.** To resign in good standing, an employee must present a written resignation to the employee's Department Director at least fourteen calendar days in advance of the resignation date, exclusive of accrued leave which the employee intends to take. This requirement may be waived in writing by the Department Director where adequate provisions can be made for a successor in that period of time (if one is needed right away) as well as under extenuating circumstances, (i.e., sudden need to leave for medical reasons, need to leave by unexpected military orders for employee or spouse, etc.). A copy of any employee's resignation shall be kept in the employee's personnel file. A resignation without the notice required by these rules may be grounds for denying reemployment with the City. Upon approval of the Department Director and concurrence of the City Manager, an employee may withdraw a resignation at any time prior to the effective date of resignation providing the position has not already been filled. An employee shall be regarded as having resigned without good standing if, while able to notify the employee's supervisor of the reason for his or her absence:

**12.1.1** The employee fails to report for duty for two working days without notifying his supervisor; or

**12.1.2** The employee fails to report for duty upon the expiration of a leave of absence/annual leave.

**12.2 Exit Interview.** The Personnel Director will conduct an exit interview for any terminating full-time or part-time employee. Employees will be notified of the option to meet with the City Manager during the exit interview. Preceding or during the exit interview, employees are expected to return all City property, including but not limited to, keys, IDs, and uniforms owned by the City.

**12.3 Lay Offs.** The City Manager may lay off employees whenever the abolishment of a position or other financial changes in the City's organization necessitates a reduction in the number of employees. Casual, temporary, probationary or part-time employees within the department in which the work force reduction is occurring shall be laid off before full-time employees. If the City Manager deems it to be in the best interests of the City, full-time employees may be assigned to vacant part-time, temporary or casual positions in lieu of layoff, and at a pay rate determined to be appropriate by the City Manager, provided such employee possesses the qualifications for the vacant position. Layoffs by position shall be made in reverse order of employee seniority by job classification within each Department, unless an employee has had a less than satisfactory work performance evaluation and/or is on a disciplinary work plan. Employees scheduled for layoff may replace less senior employees within a Department in equal or lower classifications provided they are qualified to perform the work. Laid-off employees shall have first option for another open position within the City for which they are qualified. For the purposes of this section, first option shall mean that qualified laid off city employees will be hired for the position before the vacancy is advertised to the public. If there are several laid off employees, all of whom are qualified for the opening recall of the employees shall be in order of seniority. Two weeks before the effective date of a lay off, the City Manager shall notify the employee being laid off, in writing, of the reasons for the layoff. The City Manager may place such an employee in another department where a vacancy exists provided

the employee is qualified to assume the duties of the new assignment.

**12.4 Dismissal.** A dismissal is an involuntary termination by the City of an employee from the City's employment. A layoff is not a dismissal.

**12.4.1 Dismissal, Employee:** A dismissal for disciplinary reasons or cause (Refer to Chapter 10).

**12.4.2 Dismissal, Probationary Employee:** A dismissal of a probationary employee for any reason. Probationary employees are at will.

**12.4.3 Dismissal, At Will Employee:** A dismissal of an at will employee for any or no reason. At will employees are temporary, seasonal or casual employees.

**12.5 Severance Pay.** In the case where an employee is laid off by the City Manager, the City may give the employee two weeks' severance pay. Final paychecks will be paid per Chapter 5.